

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

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|---------------------------------|---|---------------------|
| FUTUREWEI TECHNOLOGIES INC., | § | |
| D/B/A HUAWEI TECHNOLOGIES (USA) | § | |
| Plaintiff, | § | |
| | § | |
| V. | § | CAUSE NO. 4:09CV455 |
| | § | |
| E. OLIVER CAPITAL GROUP, LLC, | § | |
| MIO GROUP, LTD., | § | |
| MIO GROUP INCORPORATED, and | § | |
| GILBERT R. ARMENTA, | § | |
| Defendants. | § | |

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE,
LIFTING STAY AND AWARDING SANCTIONS AGAINST DEFENDANTS**

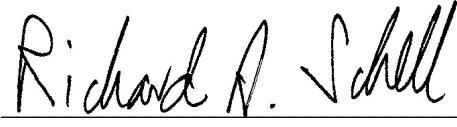
Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On April 11, 2011, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that Futurewei Technologies Inc.'s Motion to Reconsider Order to Arbitrate and Motion to Vacate Stay (Dkt. 32) be GRANTED, that the May 7, 2010 Orders of Stay and Referral to Arbitration (Dkts. 30 and 31) be VACATED, that the stay in this matter be lifted, and that the case proceed in this court. The Magistrate Judge further recommended that sanctions be issued against Defendants jointly and severally for the amount of fees reasonably incurred by Plaintiff for Defendants' failure to comply with the court's orders.

Having received the report of the United States Magistrate Judge, and no objections thereto having been timely filed, this court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the court. Therefore, Futurewei Technologies Inc.'s Motion to Reconsider Order to Arbitrate and Motion to Vacate Stay (Dkt. 32) is GRANTED, the court's May 7, 2010 Orders of Stay and Referral to Arbitration (Dkts. 30 and 31) are VACATED, the stay in this matter is lifted, and the case shall proceed in this court.

Further, the court has considered both the recommendation that sanctions be issued against Defendants jointly and severally for the amount of fees reasonably incurred by Plaintiff for Defendants' failure to comply with the court's orders and the Affidavit of Attorney's Fees and Expenses submitted by Plaintiff (*see* Dkt. 56). There being no objections filed as to the award of sanctions against Defendants, the court adopts those findings and conclusions and finds that sanctions are warranted. Because the Magistrate Judge's recommendations were limited to the fees incurred by Plaintiff as a result of Defendants' refusal to comply with orders in this court, the court finds that the reasonable and necessary fees incurred by Plaintiff in conjunction with same totaled \$33,544.10. Therefore, upon entry of final judgment in this matter, in addition to any other damages that may be awarded, Plaintiff shall be entitled to recover sanctions in the amount of \$33,544.10 from Defendants jointly and severally.

IT IS SO ORDERED.

SIGNED this the 6th day of May, 2011.



RICHARD A. SCELL
UNITED STATES DISTRICT JUDGE